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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Petition for Waiver of the Requirements of 92 Ill. Admin. Code)
Section 1500.170(c) Regarding Clearances of Buildings and)
Miscellaneous Structures From Subsidiary Freight Tracks at)
Decatur, Macon County, Illinois)

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SEP 1 2006

Illinois Commerce Commission
RAIL SAFETY SECTION

T06-0070

**UNITED TRANSPORTATION UNION'S
OBJECTION TO PETITION FOR WAIVER**

NOW COMES the United Transportation Union ("UTU") by and through its attorneys, HISKES, DILLNER, O'DONNELL, MAROVICH & LAPP, LTD., and for its Objection to the Petition for Waiver filed by the Illinois Central Railroad Company ("IC") states as follows:

1. The IC, for many years, provided rail service to industry via a sidetrack located adjacent to Milepost 27.95 on the Greenswitch Spur at Decatur, Macon County, Illinois.
2. The industry located at the point of issue in this case is Parke Toll Packaging and Blending. (A hand-drawn diagram is attached hereto as Exhibit "A" and depicts the configuration of the track in early 2005).
3. As denoted on Exhibit "A" at the point where the sidetrack turns north toward the industry, there is an open field to the west side of the sidetrack and the Parke Toll facility is to the east of the sidetrack.
4. Sometime in the second half of 2005, Parke Toll constructed a shelter at the southwest corner of its facility for the purpose of providing shelter to the workers loading and unloading railcars. At the same time as the shelter was constructed, a pocket track was also constructed in order for the passage of trains when cars are being loaded or unloaded at Parke Toll (A hand-drawn diagram is attached hereto as Exhibit "B" and depicts the locations of the pocket track, the shelter and the close clearance point.).
5. The newly constructed shelter is a roof supported by a wall which runs parallel to the side track and the west wall of Parke Toll's facility.
6. The waiver that IC seeks is being requested due to the fact that the wall constructed for the shelter forms a close clearance point for trains operating on the pocket track and the southwest corner of the shelter wall.
7. Pursuant to the Petition for Waiver filed by the IC, it is admitted that the close clearance described in paragraph 6 above is in derogation of the clearance standard established in

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- 92 Ill. Admin. Code Section 1500.170(c).
8. 92 Ill. Admin. Code 1500.810 provides a mechanism by which IC could have sought a variance from the Commission prior to the construction of the shelter and the pocket track.
 9. 92 Ill. Admin. Code 1500.810(c)(1)(2) and (3) provide the Commission with specific elements which the Commission must take into consideration before granting a variation to a railroad to begin construction.
 10. The IC, in its Petition fails to provide any basis for support of its **after the fact** request for a variance. There is no information provided as to any unique problems that would have made it **initially** necessary to construct the shelter in non-compliance with clearance requirements. There is no information provided as to any exorbitant expense to the railroad had the shelter **initially** been built in compliance. Lastly, there is no information provided to the Commission as to the impact of the safety of the railroad employees should the first two tests be met.
 11. IC simply has not provided any pertinent information to the Commission from which the Commission could conclude that a variance should be allowed, nor shown why it would be necessary to **initially** construct the shelter with non-complying clearances.

For the foregoing reasons and specifically because IC has not complied with 92 Ill. Admin. Code 1500.810, UTU respectfully requests that the Commission deny the variance petition of IC and order that the shelter be removed until such time as the shelter can be constructed in compliance with the requirements of 92 Ill. Admin. Code 1500.170. Further, that the Commission grant the UTU such other and further relief as the Commission deems equitable and fair.

UNITED TRANSPORTATION UNION -
ILLINOIS LEGISLATIVE BOARD

By: _____

Timothy C. Lapp, Attorney

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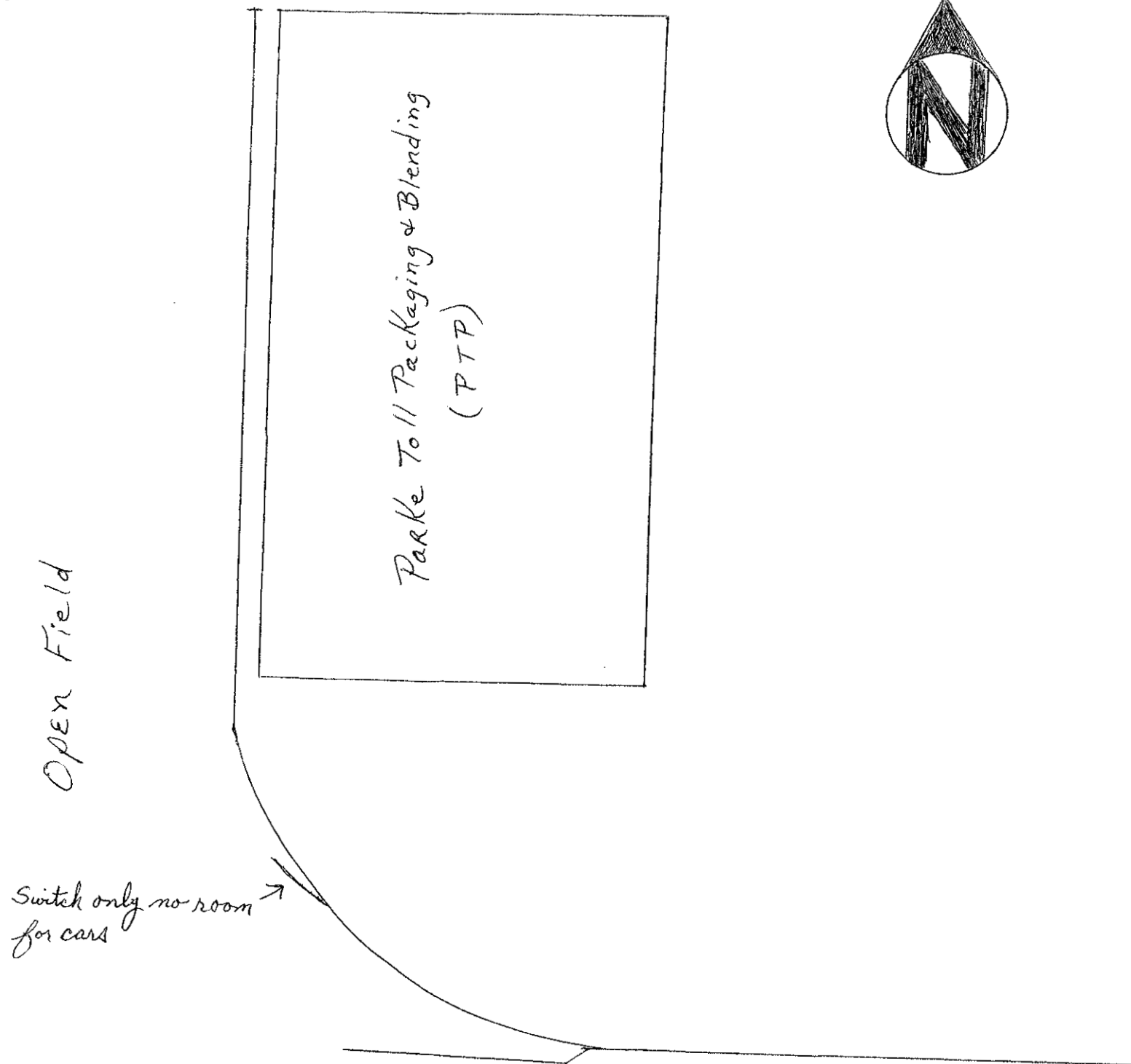
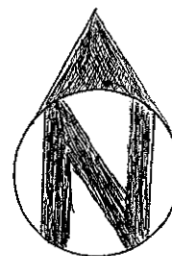


Diagram before construction

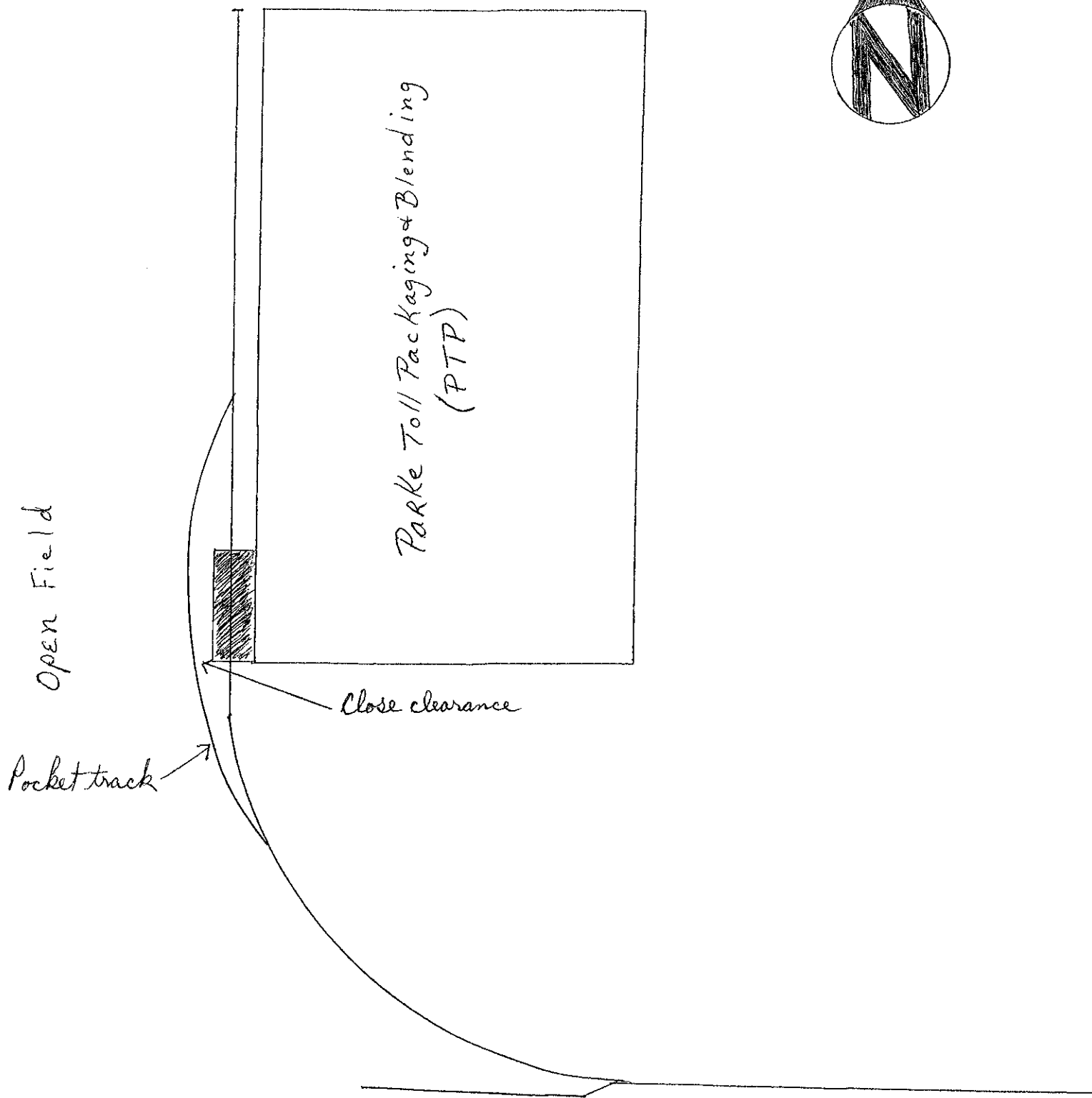
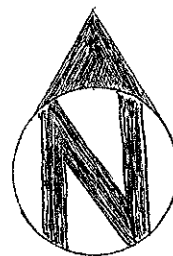


Diagram after construction

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

**PETITION FOR WAIVER OF THE REQUIREMENTS OF 91 ILL.
ADMIN. CODE SECTION 1500.170(c) REGARDING CLEARANCES
OF BUILDINGS AND MISCELLANEOUS STRUCTURES FROM
SUBSIDIARY FREIGHT TRACKS AT DECATUR, MACON
COUNTY, ILLINOIS**

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NOTICE OF FILING

TO:

Illinois Commerce Commission
ATTN: David Lazarides
527 E. Capitol Avenue
Springfield, IL 62701

Mr. Steve Matrisch
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701

Mr. Thomas J. Healey
CN Counsel -
Regulatory
17641 S. Ashland Ave.
Homewood, IL 60430

PLEASE TAKE NOTICE THAT on the 30th day of August, 2006, I filed the attached
OBJECTION TO PETITION FOR WAIVER.

By: _____

One of Its Attorneys

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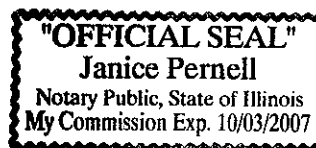
PROOF OF SERVICE

I, the undersigned, an attorney, on oath state that I served this notice to the above parties at their
respective addresses on August 30, 2006, by United States First Class Mail.

SUBSCRIBED and SWORN to before
me this 30th day of August, 2006.

Janice Pernell

Notary Public



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